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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,126	02/22/2002	Gerald W. DeVries	P-AR 4951	8539

7590

02/13/2004

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EXAMINER

HUYNH, PHUONG N

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/081,126	DEVRIES, GERALD W.	
	Examiner	Art Unit	
	Phuong Huynh	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1644

DETAILED ACTION

I. The location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Group 1640, Technology Center 1600.

II. Claims 1-38 are pending.

Election/Restrictions

III. Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 2-4, 15, and 26-38, drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is a dominant negative **VEGFR-3 receptor**, classified in Class 424, subclass 184.1.
2. Claims 5-7, 15, and 26-38, drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is a **nucleic acid molecule encoding a dominant negative VEGFR-3 receptor**, classified in Class 514, subclass 44.
3. Claims 8-11, 15, and 26-38, drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is a **VEGFR-3 kinase inhibitor**, classified in Class 424, subclass 184.1.
4. Claims 11-15, and 26-38, drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is an **anti-VEGFR-3 antibody**, classified in Class 424, subclass 130.1.
5. Claims 15-18, 21-24, and 26-38, drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is a sequence specific **ribonuclease, ribozyme, and antisense**, classified in Class 536, subclass 24.5.

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6. Claims 19 and 20 drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is **anti-VEGF-C neutralizing antibody**, classified in Class 424, subclass 130.1.
7. Claims 25, and 26-38, drawn to a method of extending corneal graft survival comprising administering a VEGF receptor (VEGFR-3) inhibitor wherein the inhibitor is a **cell that secretes a specific VEGFR-3 inhibitor**, classified in Class 424, subclass 173.1.

Liking claim 1 will be examined along with any one of groups 1-7 if elected.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups 1-7 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the methods of extending corneal graft survival using distinct products such as protein, nucleic acid, antibody, ATP analog, ribozyme and cell differs with respect to their structure, pharmaceutical properties, treatment steps and therapeutic endpoints. Therefore, they are patentably distinct.

- IV. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter. Further, even though in some cases the classification is shared, a different field of search would be required based upon the structurally distinct products recited and the various methods comprising the distinct method steps. Further, a prior art search also requires a literature search. It is an undue burden for the examiner to search more than one invention. Therefore restriction for examination purposes as indicated is proper.
- V. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

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- VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (703) 872-9306.
- VII. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

February 9, 2004


CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600